

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 896

Introduced by Assembly Member Portantino

February 17, 2011

An act to amend ~~Sections 3020, 3311, and 4103~~ *Section 2150* of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 896, as amended, Portantino. Elections: ~~vote by mail ballots voter registration.~~

Existing law requires that a person, in order to be eligible to vote, be registered to vote by an affidavit of registration, and further specifies the contents of an affidavit of registration and the means by which it may be executed. In addition, the Uniform Electronic Transactions Act establishes specified requirements that apply to a transaction, as defined, that the parties to the transaction have agreed to conduct by electronic means. Existing law also specifies certain criteria that must be satisfied in order for a digital signature to be used in place of a manual signature in a written communication with a public entity.

This bill would provide that an affidavit of registration constitutes both a transaction within the meaning of the Uniform Electronic Transactions Act and a written communication with a public entity. The bill would further provide that a county elections official may accept an affidavit of registration electronically if the affidavit complies with the Uniform Electronic Transactions Act, if the signature on the affidavit complies with the requirements imposed by existing law on a digital signature used for a written communication with a public entity, and if the signature on the affidavit is recorded using a technology that

allows the county elections official to visually compare the signature to other signatures of the affiant.

This bill would make the foregoing changes both in provisions of law that are currently operative and in provisions of law that may replace those operative provisions in the event of a specified contingency.

~~(1) Existing law requires that all vote by mail ballots and special absentee ballots be received by elections officials or precinct boards by the close of the polls on election day in order to be counted.~~

~~This bill would permit the counting of vote by mail ballots and special absentee ballots that are returned by mail and postmarked by election day.~~

~~(2) Existing law permits certain local and special district elections to be conducted entirely by mail ballots.~~

~~This bill would also permit these mail ballots in these elections to be counted if they are postmarked by election day.~~

~~(3) Because this bill would expand the duties of local elections officials, it would impose a state-mandated local program.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~.
State-mandated local program: ~~yes-no~~.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2150 of the Elections Code, as amended
2 by Section 8 of Chapter 1 of the Statutes of 2009, is amended to
3 read:

4 2150. (a) The affidavit of registration shall show *all of the*
5 *following*:

6 (1) The facts necessary to establish the affiant as an elector.

7 (2) The affiant's name at length, including his or her given
8 name, and a middle name or initial, or if the initial of the given
9 name is customarily used, then the initial and middle name. The
10 affiant's given name may be preceded, at affiant's option, by the
11 designation of Miss, Ms., Mrs., or Mr. A person shall not be denied

1 the right to register because of his or her failure to mark a prefix
2 to the given name, and shall be so advised on the voter registration
3 card. This subdivision shall not be construed as requiring to require
4 the printing of prefixes on an affidavit of registration.

5 (3) The affiant's place of residence, residence telephone number,
6 if furnished, and e-mail address, if furnished. ~~No~~ A person shall
7 not be denied the right to register because of his or her failure to
8 furnish a telephone number or e-mail address, and shall be so
9 advised on the voter registration card.

10 (4) The affiant's mailing address, if different from the place of
11 residence.

12 (5) The affiant's date of birth to establish that he or she will be
13 at least 18 years of age on or before the date of the next election.

14 (6) The state or country of the affiant's birth.

15 (7) (A) In the case of an ~~applicant~~ affiant who has been issued
16 a current and valid driver's license, the ~~applicant's~~ affiant's driver's
17 license number.

18 (B) In the case of any other ~~applicant~~ affiant, other than an
19 ~~applicant~~ affiant to whom subparagraph (C) applies, the last four
20 digits of the ~~applicant's~~ affiant's social security number.

21 (C) If an ~~applicant for voter registration~~ affiant has not been
22 issued a current and valid driver's license or a social security
23 number, the state shall assign the ~~applicant~~ affiant a number that
24 will serve to identify the ~~applicant~~ affiant for voter registration
25 purposes. To the extent that the state has a computerized list in
26 effect under this subdivision and the list assigns unique identifying
27 numbers to registrants, the number assigned under this
28 subparagraph shall be the unique identifying number assigned
29 under the list.

30 (8) The affiant's political party preference.

31 (9) That the affiant is currently not imprisoned or on parole for
32 the conviction of a felony.

33 (10) A prior registration portion indicating whether the affiant
34 has been registered at another address, under another name, or as
35 preferring another party. If the affiant has been so registered, he
36 or she shall give an additional statement giving that address, name,
37 or party.

38 (b) The affiant shall certify the content of the affidavit as to its
39 truth and correctness, under penalty of perjury, with the signature

1 of his or her name and the date of signing. If the affiant is unable
2 to write, he or she shall sign with a mark or cross.

3 (c) The affidavit of registration shall also contain a space that
4 would enable the affiant to state his or her ethnicity or race, or
5 both. An affiant ~~may~~ *shall* not be denied the ability to register
6 because he or she declines to state his or her ethnicity or race.

7 (d) If ~~any~~ *a* person, including a deputy registrar, assists the
8 affiant in completing the affidavit, that person shall sign and date
9 the affidavit below the signature of the affiant.

10 (e) The affidavit of registration shall also contain a space to
11 permit the affiant to apply for permanent vote by mail status.

12 (f) The Secretary of State may continue to supply existing
13 affidavits of registration to county elections officials prior to
14 printing new or revised forms that reflect the changes made to this
15 section by the act that added this subdivision.

16 (g) *(1) An affidavit of registration constitutes both of the*
17 *following:*

18 *(A) A “transaction” between the affiant and the county of his*
19 *or her residence within the meaning of the Uniform Electronic*
20 *Transactions Act (Title 2.5 (commencing with Section 1633.1) of*
21 *Part 2 of Division 3 of the Civil Code).*

22 *(B) A “written communication with a public entity” within the*
23 *meaning of Section 16.5 of the Government Code.*

24 *(2) Notwithstanding any other provision of law, a county*
25 *elections official may accept an affidavit of registration*
26 *electronically if all of the following requirements are satisfied:*

27 *(A) The affidavit complies with the Uniform Electronic*
28 *Transactions Act (Title 2.5 (commencing with Section 1633.1) of*
29 *Part 2 of Division 3 of the Civil Code).*

30 *(B) The signature on the affidavit complies with Section 16.5*
31 *of the Government Code.*

32 *(C) The signature on the affidavit is recorded using a technology*
33 *that allows the county elections official to visually compare the*
34 *signature to other signatures of the affiant.*

35 SEC. 2. *Section 2150 of the Elections Code, as amended by*
36 *Section 4.5 of Chapter 364 of the Statutes of 2009, is amended to*
37 *read:*

38 2150. (a) The affidavit of registration shall show *all of the*
39 *following:*

40 (1) The facts necessary to establish the affiant as an elector.

1 (2) The affiant's name at length, including his or her given
2 name, and a middle name or initial, or if the initial of the given
3 name is customarily used, then the initial and middle name. The
4 affiant's given name may be preceded, at affiant's option, by the
5 designation of Miss, Ms., Mrs., or Mr. A person shall not be denied
6 the right to register because of his or her failure to mark a prefix
7 to the given name, and shall be so advised on the voter registration
8 card. This subdivision shall not be construed as ~~requiring~~ *to require*
9 the printing of prefixes on an affidavit of registration.

10 (3) The affiant's place of residence, residence telephone number,
11 if furnished, and e-mail address, if furnished. ~~No~~ A person shall
12 *not* be denied the right to register because of his or her failure to
13 furnish a telephone number or e-mail address, and shall be so
14 advised on the voter registration card.

15 (4) The affiant's mailing address, if different from the place of
16 residence.

17 (5) The affiant's date of birth to establish that he or she will be
18 at least 18 years of age on or before the date of the next election.
19 In the case of an affidavit of registration submitted pursuant to
20 subdivision (d) of Section 2102, the affiant's date of birth to
21 establish that he or she is at least 17 years of age.

22 (6) The state or country of the affiant's birth.

23 (7) (A) In the case of an ~~applicant~~ *affiant* who has been issued
24 a current and valid driver's license, the ~~applicant's~~ *affiant's* driver's
25 license number.

26 (B) In the case of any other ~~applicant~~ *affiant*, other than an
27 ~~applicant~~ *affiant* to whom subparagraph (C) applies, the last four
28 digits of the ~~applicant's~~ *affiant's* social security number.

29 (C) If an ~~applicant for voter registration~~ *affiant* has not been
30 issued a current and valid driver's license or a social security
31 number, the state shall assign the ~~applicant~~ *affiant* a number that
32 will serve to identify the ~~applicant~~ *affiant* for voter registration
33 purposes. To the extent that the state has a computerized list in
34 effect under this subdivision and the list assigns unique identifying
35 numbers to registrants, the number assigned under this
36 subparagraph shall be the unique identifying number assigned
37 under the list.

38 (8) The affiant's political party preference.

39 (9) That the affiant is currently not imprisoned or on parole for
40 the conviction of a felony.

(10) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as preferring another party. If the affiant has been so registered, he or she shall give an additional statement giving that address, name, or party.

(b) The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name and the date of signing. If the affiant is unable to write, he or she shall sign with a mark or cross.

(c) The affidavit of registration shall also contain a space that would enable the affiant to state his or her ethnicity or race, or both. An affiant ~~may~~ *shall* not be denied the ability to register because he or she declines to state his or her ethnicity or race.

(d) If a person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

(e) The affidavit of registration shall also contain a space to permit the affiant to apply for permanent vote by mail status.

(f) The Secretary of State may continue to supply existing affidavits of registration to county elections officials prior to printing new or revised forms that reflect the changes made to this section by the act that added this subdivision.

(g) (1) *An affidavit of registration constitutes both of the following:*

(A) *A “transaction” between the affiant and the county of his or her residence within the meaning of the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code).*

(B) *A “written communication with a public entity” within the meaning of Section 16.5 of the Government Code.*

(2) *Notwithstanding any other provision of law, a county elections official may accept an affidavit of registration electronically if all of the following requirements are satisfied:*

(A) *The affidavit complies with the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code).*

(B) *The signature on the affidavit complies with Section 16.5 of the Government Code.*

1 (C) *The signature on the affidavit is recorded using a technology*
2 *that allows the county elections official to visually compare the*
3 *signature to other signatures of the affiant.*

4 ~~SECTION 1. Section 3020 of the Elections Code is amended~~
5 ~~to read:~~

6 ~~3020. All vote by mail ballots cast under this division shall~~
7 ~~either be postmarked not later than election day or received by the~~
8 ~~elections official from whom they were obtained or by the precinct~~
9 ~~board no later than the close of the polls on election day.~~

10 ~~SEC. 2. Section 3311 of the Elections Code is amended to read:~~

11 ~~3311. All vote by mail ballots cast pursuant to this chapter~~
12 ~~shall be received and canvassed under the same procedure as all~~
13 ~~other vote by mail ballots.~~

14 ~~SEC. 3. Section 4103 of the Elections Code is amended to read:~~

15 ~~4103. Ballots cast under this chapter shall be received and~~
16 ~~canvassed under the same procedure as all other vote by mail~~
17 ~~ballots.~~

18 ~~SEC. 4. If the Commission on State Mandates determines that~~
19 ~~this act contains costs mandated by the state, reimbursement to~~
20 ~~local agencies and school districts for those costs shall be made~~
21 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
22 ~~4 of Title 2 of the Government Code.~~